Community Reinvestment Act Joint Public Hearing, August 12, 2010
Panel Three: Question and Answer

Elizabeth Duke:
Thank you. This time we'll start with Deputy Comptroller Wides, and if we could keep this round of questions to 8 minutes at least so--in the right place, I think.

Barry Wides:
Okay. I'd like to thank the panelists for the insightful presentations. I wanted to start with Ms. Tassan who has worked with banks that are under strategic plan as well as banks that are not. And I wanted to come back to a point that we had talked about during the first panel this morning regarding how banks that you've worked with view disclosing the information in a public forum that needs to be provided in order for a strategic plan to be considered by the public. And has that caused any difficulties for the bank that you're currently working with, and was the proprietary concern that was raised by Ms. Wingard this morning, an issue--the previous banks where you've worked that perhaps strategic plan have been considered.

Vicki Tassan:
Okay, thank you for that question. I was going to ask someone to ask that question but I didn't have time. Basically, first of all, let me speak--

[Simultaneous Talking]

[Laughter]

Vicki Tassan:
Thanks, Martin. First let me say that we are working with the FDIC right now on our strategic plan, so it's in its infancy. But in other places where I've worked, first of all, I was the biggest naysayer against strategic plan you've ever imagined. I kind of pooh-poohed them and it was like, you know, too much work. And we were actually here at a meeting that the Federal Reserve of Chicago convened in December, and one of the staff asked the question to the audience and they said, "Does anybody in here operate under a CRA strategic plan?" And I was really afraid to raise my hand because no one else did. I was like, "Okay, well, you know, maybe this is a mistake." But here is the good news. There are clear guidelines about how to establish the CRA strategic plan and what should be considered. I am really impressed by the fact that you do get community input. And I have no problem setting goals for our business units, agreed upon goals, because they're agreed upon, and at the same time, the plan allows flexibility if the economy changes, if your business strategy changes, and I just--I have to tell I'm now the biggest support that you've ever seen to the CRA strategic plan. So based on past experience, I wouldn't have said that. But now that I'm more involved with the process and based on some other roles I've had, I would say banks not--again, not for every bank, so it depends on your business model, your strategy, the scope of your institution. But I would highly recommend to you, if you're here from a financial institution, to consider that as a way to provide really good community involvement as well as business practice.

Barry Wides:

Okay, thanks. I had a question for Mr. Ford. You were talking about responsible disposition policies and one of the approaches that you've touched on that I'd like to get a little bit more information about was programs that divert low valued distressed properties to beneficial lenders like land banks municipalities as pioneered by Fannie Mae and HUD. Could you tell us a little bit more about how those programs are operating and how that might provide instructive guidance for other institutions and other communities?

Frank Ford:
Yes. In my view, there's an evolution to how the lending community has been viewing how to dispose of distressed REO property. The first major step was toward what people are calling "First Look" programs, where local non-profits and municipalities give at least the first option to buy something. This is a further evolution beyond that. This--what Fannie Mae has done in Cleveland and now HUD is doing it as well is to say that any property that falls below a certain threshold -- and I think in Fannie Mae's case it's $25,000, in HUD's case it's 20,000 -- those properties are simply viewed as so defective that they really don't belong in the stream of commerce. They need to be extracted off the stream of commerce and set aside. And what Fannie Mae is doing is that anything $25,000 or less is basically given, donated to our county land bank with an additional $3,500 cash contribution in those cases where it needs to be demolished which is, I think, so far, it's about 90 percent of them. HUD is doing $20,000 or less. Those properties are moved over, offered at least to our land bank, and I think that that's like it's $100 I believe. It's either donated or the city or the land bank has to pay a hundred dollars. These are both relatively new. So they are not--I think the Fannie Mae agreement might be about six months old. The HUD agreement started with the city and then moved over to the land bank. So, I don't know if the volume is more than a couple of hundred collectively yet. But I will say that in Cleveland, it is viewed as the gold standard for where we want to move to for low valued distressed property because when we don't have--when we don't have this remedy, these properties go out in the stream of commerce and are--they're churning over and over between flippers and speculators. And if I may just give you one example of a property that I personally have been in. In fact you can see I started in my own YouTube video. It's in the materials linked to it. It's a 2-minute video. It was a Wells Fargo property that is in severe damage. After I took the video, it was sold to a company called BestBuy properties that operates exclusively on the internet. They paid $2,500 to Wells and that seems like not a lot of money, but the alternative is this could have gotten, torn down, and Wells would have paid a $10,000 demolition bill. So Wells made up pretty good for $2,500. A week later, BestBuy sold it to somebody in England who saw it on the internet for $4,150. So BestBuy made $1,600 dollars for one week's worth. The guy in England, I feel really sorry for him because he has no idea what he bought unless he sees my YouTube video, so.

Barry Wides:
I have 2 minutes left. So within a few minutes, you could tell us whether the City of Cleveland has plans in place for what they're going to do with these demolished land bank properties.

Frank Ford:
Actually that is--I'm really proud of something that we're doing in addition to looking right on what's in front of us, which is what do we do with 11,500 vacant houses, we're also looking forward. And there is an initiative that's partly funded by the Surdna Foundation, but it's a joint

effort of my organization, Neighborhood Progress, the City of Cleveland, the City of Planning Department, the new county land bank to look at a thoughtful approach to long term how do we reuse thousands of vacant lots. The program is called Re-Imagining Cleveland. It's also only about a year old, and it's starting with the immediate reuse for community gardens, a neighbor adopting a side lot. But the bigger picture is planning for 5-10 years down the road, do we build new housing? If the market comes back, there are talks about tree farms. It seemed completely unusual, you know, previously un-thought of uses for property in an urban context. So it's at least we're thinking about it now.

Barry Sides:
Thank you.

Frank Ford:
Yeah.

Thomas Barnes:
Mr. Ford, let's stick with you because your comments were as specific as anything I have read today from any of the panelists. I think you used the term "the banks were causing significant damage," so that was a pretty bold statement. If we were to adopt all of the recommendations you make on a nationwide basis, do you think it would result in more lending or less lending?

Frank Ford:
In terms of loan origination--

Thomas Barnes:
Yeah, loan origination.

Frank Ford:
It's a money out the door. I'm thinking--I guess I would like to believe that the result of the recommendations I'm proposing would be a strengthening--let me back up for a minute. I believe that markets like Cleveland, Detroit, markets that have been extremely hard-hit by this problem have excess vacant properties. Those markets are severely damaged. Home sales are depressed because nobody wants to buy near a neighborhood where half the streets, half the houses on the street are vacant. If we were to begin to pay more attention to what--how do we clean up the physical problem of all these vacant properties, I think in the long run, it may not happen overnight, but in the long run, we will have stronger markets, more home sales, and certainly there will be a greater need for credit. We'll be back to where we really need credit and can use it. Today, there aren't a lot of home sales, they're down, and that means lending is down.

Thomas Barnes:
Thank you.

Mr. Tisler, if I could ask you, should the performance test be changed to better ensure that all segments of the community are being served?

Lou Tisler:

I believe so. I really believe that looking at the community that it shouldn't just be shareholder wealth or being able to get a tick, but to be able to provide a better community or at least a stable community. And, you know, to dovetail what Frank has said, is that we think that being able to perform and to do right is going to be a good business decision. So, if these houses are taken off-line, there's going to be able to be more lending and more CRA lending to homes in these assessment areas.

Thomas Barnes:

Thank you. Mr. MacLellan, I know and I realize you no longer have a New England accent but I'm going to ask anyway. You talked that one of your precepts is sort of make the assessment areas statewide, and I think that probably does work very well for your product, your interests. What about in the three states you represent, there's a lot of small financial institution by any one standards. They call themselves "community banks" because they probably only serve one, two, three towns maybe. Would you penalize them if they couldn't meet the state test under this scenario?

Ignatius MacLellan:

Actually I think they would--it would actually benefit them if they had an interest in the tax credit as strictly an investment vehicle because their assessment areas can be so narrow that they can't go outside of the assessment areas, so they don't have that investment motivation. Where we've been struggling with the larger nationals at this time, we have a large investor, the housing finance agency put a project and hooks it at New Hampshire which is right next to Manchester, New Hampshire.

But because it wasn't in the Manchester MSA, the investor was reluctant to go there. That doesn't work. And we would love to get the community banks involved. We do significant outreach to them. They are more likely though, to be honest in terms of what they do on the ground, to want to invest right in their community because they do it for community purposes. The larger banks aren't as concerned about that specific community connection.

Thomas Barnes:
I asked the question earlier to another panel about, you know, could different products have different assessment areas and maybe this would fit there. So, a statewide product like UIs would fit but maybe local lending to, you know, borrow as regular one or two person borrowings.

Ignatius MacLellan:
Yes. If I could, I mean, like Re-Imagining Cleveland re-imagining the Community Reinvestment Act, acknowledging that banks have become the crucial partners with the public housing programs in America and other community development programs, whatever you can do to align the CRA with what's already out there in the public sector would be very beneficial even if it meant you had segregated test for different areas of community developments such as tax credits.

Thank you. Mr. McLean, can I ask you to put your exam on ahead on for me for just a second?

[Laughter]

Thomas Barnes:
You were advocating that CDFI lending, you know, could be without bounds as long as it was good and strong and serve the purpose. If a local financial institution wasn't doing well in the direct lending, the lending test so to speak, would you allow very, very strong CDFI lending to sort of trump it and still allow it to get a decent CRA exam rating.

Warren McLean:
Tough question. My thought is that the national CDFIs, I guess I would allow them to--my thought is that the national CDFIs would be sensitive to the needs of the local community. And an organization for instance like CRF has national partners around the country, and our mission is to make sure that we are supporting the organizations locally around the country, so we would be concerned about making sure that the local needs are met as well as the national needs around the country are met. So, and also I think that, excuse me, many, many organizations or many communities tend to be overbanked and specifically the large communities. And so, there are lots of local, or I should say rural communities or communities that don't have the same kind of infrastructures from the financial community that don't get the kind of support that they could get if they had partnerships or support or networks or relationships with CDFIs around the country. So, I think there's a balancing that would occur because you're working with strong partners around the country.

Thomas Barnes:
You'd make a good examiner, thank you.

[Laughter]

All set.

Elizabeth Duke:
Okay. Thank you. I'm struck by this panel how little focus there's been in this panel on new lending. I mean it's been on the--obviously aftermath of some very bad lending. And first of all, I'd like to use this if I could as just a chance for a quick commercial. We are having an REO conference at the Federal Reserve in Washington on September 1 -- Joseph, is that correct? -- September 1 to look at a lot of these issues. And as we look at the proposal to UCRA to support neighborhood stabilization programs, it didn't comfortably fit in that model. But certainly, you know, everybody agree that was a petition, we've used it in the past to also help in areas of natural disaster. So, my question is any suggestions that you might have for ways that we can build in the flexibility in CRA to accommodate circumstances that change and change pretty rapidly without shortchanging the sort of core concepts of it.

Lez Trujillo:

I do have recommendation. One of them is to use the existing housing counseling infrastructure and improve it, invest in it so it provides some--reduce the risk for the system. I think that our--we are mixing apples and oranges. That is what if people cannot qualify right now for a loan because they mismanaged credit, but there is also what if people who had experienced hardships - they lost employment, they had medical emergencies, and there needs to be some sort of intermediary that can assess the differences, the financial practices, the management that has happened and figured out who are these individuals that can really qualify and sustain a mortgage for the long term. And that right now is not being considered credit in the communities that we serve has virtually disappeared. All of the underwriting guidelines that assisted us to qualify individuals with these multiple risk factors have been removed. And we will like for housing counseling agencies to play that key role to help the lenders and regulators figured out what new practices, what new guidelines we will need to have that accommodate those hardships and difficult circumstances. Right now we really need credit back in our communities, and we are really not seeing that.

Vicki Tassan:
Governor Duke, if I could add to that. You know, this is a challenging, very challenging situation that we're talking about. If banks work, and again I'm speaking broadly not as someone from my bank, but if banks work with local community groups and with individuals and either modify the mortgage, reduce it, whatever, the challenge still exist, people have to have a job, and people are losing their jobs. So the jobs and the housing go hand in hand. And so regardless of how much a bank may want to do to accommodate some of the borrowers who are either near foreclosure, in foreclosure, need a loan modification, the economic circumstances are still a challenge out there. And I think that's something we need to put on the table because it's, you know, the White House talks about jobs all the time. And of course being in DC, it's all I listen to is political shows. But it's incredibly it's hand and glove, both issues.

Elizabeth Duke:
Anybody else on the flexibility issue?

Male voice:
Pardon?

Elizabeth Duke:
Is there anybody else on the flexibility issue?

Frank Ford:
Not--you know, the only thing that I wanted to add is when you had said that we didn't talk that much as a panel about lending, I realized I'm even surprised that I didn't because a year ago if I've thought I'd be here I'd be saying something about CRA, and I--and I really start to the post-foreclosure REO property for the most part. But the one thing that I'm a little concerned about I've been hearing over the last couple of years often it's news commentators saying CRA was the cause of the foreclosure crisis. And I guess just a moment to say, in my opinion, after observing it over 30 years since, you know, when CRA even began, that the CRA lending that took place from 1977 to about '95 was safe and sound lending. We put a lot of people on homes and there

were very low default rates. The problem didn't start until the rise of subprime lending when safe and sound lending was basically tossed out the window. The beauty of CRA has always been the marriage between, on one hand, meet the credit needs of the community, but do it consistent with safe and sound lending. And I guess I would say if there's pressure on you to undo CRA, at least let's not undo it because its basic principle is very--is still very strong.

Ignatius McLellan:
And if I could, please, I mean I would ask flexibility for what purpose. The Community Reinvestment Act is designed to serve the local communities clearly in a safe and sound way in a way that works well for the investors, but I would caution to not go with flexibility to meet a business model that may not match with community model. So, I like the way you talked about core principles and the flexibility, and that would be my request. That's a very delicate balance. But as we move towards, you know, larger and larger institutions from our small state perspectives, you know, how does that work, you know, does that flexibility for the business model end up hurting the core principles of the communities.

Lou Tisler:
Governor Duke, if I could. I think that the practitioners understand the tightening of the lending market, and so, you know, not addressing that aspect.

Our concern will be the proportionality of where that lending market goes. I mean if it is only going to be lent to those at 780 who live in a certain community or certain demographic then we're gonna be back here and being much more loud and vocal about that. But I think that from our experience on the panel now, we're looking at a reactive approach to it by saying, "Okay, here's what we've seen." And that flexibility, I think, in the changing times, you know, whether that means, you know, as talking about doing sustainable modifications or actually principal write-downs and giving credit, CRA credit for that to happen is flexibility that we definitely need.

Elizabeth Duke:
Okay.

Barry Wides:
Thank you. I wanted to come back. I've known Vickie for a long time, so for me to call her Ms. Tassan is a little strange.

[Laughter]

Vicki Tassan:
I thought that was strange of Barry to do that too, but I didn't say anything, so

Barry Wides:
But I--

Vicki Tassan:
I'm sorry--do you miss your pen?

Barry Wides:
I wanted to come back to your strategic plan. I gather it has been submitted so you don't have a final completed plan --

Vicki Tassan:
Right. It just started.

Barry Wides:
--publicly available. But it's intriguing 'cause it respond to some of the issues we've been discussing this morning which is CRA in effect in institution with only one physical location in terms of a branch, but you do lending on a national basis. You're a substantial institution with $60 billion of assets, $30 billion of deposits, so that the strategic plan you developed, I gather, is an effort to expand your assessment areas. Is that--is that right?

Vicki Tassan:
That's our hope, yes.

Barry Wides:
I was wondering if you could just share with us as is in a general way, and you may not or if it's all sensitive, just what the thought process was and what is it that you were trying to achieve with--

Vicki Tassan:
Sure.

Barry Wides:
With your plan.

Vicki Tassan:
I'd be happy to. The thought process really started out when I looked at several things, where we were taking deposits from all over the country, where we had large concentrations of employees whether it was a call center, a mortgage office, mortgage operation, or you know, several hundred employees in one location. Also we looked at the not-for-profits that were in several markets where we had again deposits and employee concentrations and realized that there were some outstanding community partners with whom we could work, and that there was a real opportunity for us to make a difference. Some markets are so overbanked that I automatically said, "I don't really think that's some place we need to look because it got a lot of great financial institutions there already." And then I took the additional step of doing community needs assessment for about 20--I tried to do 20 in each of the proposed additional areas and asked them with a third party research firm. They didn't know who was asking the questions, but, you know, what are some of your credit needs that are out there right now, you know, what could a financial institution do for you that isn't being done already. And consistently across the board, the three issues were low-cost loans, predevelopment loans, and some type of grant or equity investment. And that was consistent regardless of where we went with the market research. So, we did that in advance just to see, to kind of gauge the need and the opportunity out there.

Barry Wides:
And I'm interested, what was the impetus for the decision to go with the strategic plan since it's something you hadn't done before.

Vicki Tassan:
Basically, we thought it was--it will--it provided both the flexibility and for you to determine upfront what would the goals be for lending investment and services. And to know that over a three-year period, you had an opportunity to meet a target so as much more quantifiable than qualifiable. And it really gave you a real laser focus. So again, I could be able to post--I'll do the PSA whenever you want it.

Barry Wides:
Okay, thank you. That's really very helpful. Let me ask, this has been a very helpful panel and you've addressed some issues that haven't been raised before, so it's particularly helpful. I'd be interested just to go down the row and the time we have, if there's one regulatory change, we--that's the limit of our authority. We don't have the ability to change the law but we do have authority in regard to the regulation. If there were one regulatory change you would like to see in CRA, what would it be?

Ignatius McLellan:
I have so many. It's a tough one, but I might--I'm inclined to say the thing that concerns me the most is that so much of the--what I would call the damage being done. The decision-making is not done in the lending department of the bank, it's being done in the mortgage servicing division of the bank. And it--it really is off the radar in terms of how we can get our hands around it, how we would find out about it. I think if I were to pick one thing it would be that in your examinations, the banks, somehow, this has to come out. The servicing activity--I mean just if I could go just a little bit further that what we often find, and I'll go down to like specific properties like the one that I referenced earlier, we'll talk to the lender, Wells Fargo, and on the deed it says, "Wells Fargo, Trustee," we'll say, well, were they just a trustee, we don't make these decisions. It's the servicer who makes the decision, who makes--So at some other bank's servicing department, you got to talk to them and they'll say, "Well, we don't have legal title. That's Wells Fargo. They've got legal title. Their name is on the deed." There's this back and forth here. And I think the servicing activity has been in the backroom from the perspective of a lot of us and if there was a way that that was more front and center and there was accountability for what's being done at the servicing departments at the banks.

Vicki Tassan:
Well, I'm going to completely switch gears here and instead of saying what you think I would say, I'm going to say that with regard to rural and Native American lending and investing, that we--anything--any deal that's considered or done in those communities should count for CRA purposes. I managed rural lending and community--and Native American lending and investing for many years, and those deals are so challenging. The economies are so stressed that there should be an immediate focus, and great, you did that, that's wonderful. And in addition to that, I think we need some clarity around the definition of what is rural. It's all over the place, and it goes back and forth depending on who you talk to. So moving from a more urban focus, I would

say that rural Native American, we should look at that from a regulatory perspective and expand it.

Frank Ford:
I think from a community perspective that the modernization of CRA includes as many institutions dealing in the financial markets as possible with the caveat that there'll be a differentiation of the exam per community need.

Barry Wides:
I'm not sure if I can--I'm not sure what you meant by that last point.

Frank Ford:
That--that it's not a one size fit all. That again what needs to be looked at in Cleveland or the Midwest is not the same thing that needs to be looked at on the West Coast.

Warren McLean:
I think I've reiterated the point I made about the CDFIs being given the same treatment as minority and women-owned financial institutions as well as low income credit unions. And the other point I would make I know you asked for one was to give credit for longer term loans and lending so that the banks would be incentive to make longer term loans which, I think, benefit the needs of the community.

Lez Trujillo
Give extra credit for innovation that really address emerging issues. We'd certainly need a different type of lending, we need more energy efficiency retro-fitting programs. We need programs that improve loan performance and deplete purchase item post-purchase side. And the challenge is too big for all of us. We need everybody - the private, the public, the nonprofit system to work together on this.

Ignatius McLellan:
Great. For community development activities align the CRA geography requirements better with how public--other public dollars are allocated, the market realities of the different geographies without becoming too remote from where the banks were actually doing business.

Barry Wides:
Thank you.

Male Voice:
Thank you.

Female Voice:
That's great.

Elizabeth Duke:

And I'm gonna give you one last chance to say, you know, this is your last--last thought that you'd like to leave us with, the single most important thing that you think has come out of today or your thoughts for the day.

Frank Ford:
Well, that I've learned today or that I still might want to say today?

Elizabeth Duke:
That you still might want to say.

[Laughter]

Frank Ford:
Okay. Well, if I were to add anything, it might be the one I was asked that difficult question, if there's one regulatory change and I was struggling with that, I will say that the other one would be in the category of the collateral of the loan is something that gets lost in this entire process, and once the home is abandoned, that collateral is what's doing a lot of damage. And if that were paid attention to somehow, if the foreclosing lenders were, as I said, asked the question, well, if we file this foreclosure and the home goes vacant, does that got any consequence to us, I guess I would, like the examiners, to ask them what damages that activity doing to the communities you work in when you file these foreclosures and let the homes go vacant. And the truth is they often don't get much back out of them in the way of value. And yet by taking that action, it precipitates the vacancy, the abandonment, and then there's a lot of financial damage in terms of lost property values and millions of dollars in lost property tax for schools and other municipal services. So there's significant harm. And so to wrap it up, it would be that some attention is paid to the collateral, the physical asset itself, the one that's left there vacant. What's happening with that? Who's paying attention to that? Thank you.

Elizabeth Duke:
Okay.

Vicki Tassan:
I think my headline will be performance context. I say that because at the FFIC conference in March, many--I went to every session, and every session, one of the regulators said, "You need to focus on performance context." And for those of you that are not as ingrained about the exam process, it's really the bank's opportunity to tell their story about what's occurred since the last exam, whether it's economic conditions, change in housing stock, jobs, whatever. And I don't think people really know how to use that, and we're not given enough guidance about how important it can be to tell your story during a regulatory exam. So, performance context. Okay.

Lou Tisler:
I think that the main thing is that lending to qualified low and moderate income homeowners is not only morally correct but also has the ability to create a competitive ROI. And to jump also on something that Frank opened the door to, that we continue to have to say CRA is not the reason for the foreclosure crisis or the housing crisis. I know we've said it once, but I think that we need to say it about 15 million times for the general populace to understand that because

when they see CRA, they say that is why we're in this mess, and we have to continue to hammer home that that is not the case.

Warren McLean:
I would encourage or say that we should elevate the importance of small business lending. There's not a lot of small business lending going on right now. And so we would say that we should add, as I've stated, more questions with respect to, for examples with respect to small business lending as a--in the Q and A to encourage that. And also even make small business lending, one of the innovative and complex lending investment opportunities now just because it's the statement that was made about context in this environment that hasn't been a lot of small business lending, and so even SBA lending is innovative in this environment.

Lez Trujillo:
My--so, it would be that we have one of these types of dialogues and forums where practitioners on the field come bring up the different perspectives that we are seeing from the different communities that we serve in and bring the African-American, the Latino, the Asian perspectives from both the client and what really is happening in day-to-day in our communities. And they need to be more often done what we've been having. And learning--learning and really trying to implement some of the lessons and ideas that people bring to the table.

Ignatius McLellan
And I would say that those of us who work in community development fill an incredible responsibility to our communities, and trying to translate that incredible concern into something that technically works and works within a very complex financial arrangement, and then the CRA is a daunting task. I want you to take away from me today that some of the folks who are pushing for regionalization of tax credits in terms of CRA, they don't have everybody's support. That being said, I want you to hear our commitment to work with them and to have the dialogue, and to seek out expert advice on how can we serve the different sized markets 'cause I think we all are committed to that same mission of helping lower income folks, we just come out from different perspectives. Thank you.

Elizabeth Duke:
Thank you. This panel was given the responsibility to address regional and emerging issues, and I think you did a magnificent job of filling that, so please help me thank this panel.

[Applause]

Elizabeth Duke:
Alright. We are going to move now to what I call the lightning round and this is where we have individual presenters. We have only 90 minutes for this and we have 27 presenters. So, you know, they will each be held to three minutes. And Alicia, you're gonna give instructions on how we do this?

Male Voice:
I hope to make it to Cleveland one, I'll send you--

Female Voice:
We're going to take a break and then yeah--okay. Do you wanna--yeah--

Male Voice:
Okay.

Alicia Williams:
Alright. We're gonna take a break and then we're gonna start promptly at 3. Those that are presenting if you could come up to the front of the room and be here upfront by 2:50, please. Thank you.

Female Voice:
It's very helpful.

Male Voice:
Yeah.